No. 14-556

IN THE

Supreme Court of the United States

JAMES OBERGEFELL, ET AL., AND BRITTANI HENRY, ET AL.,
Petitioners,

v.

RICHARD HODGES, DIRECTOR, OHIO DEPARTMENT OF HEALTH, ET AL.,
Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

BRIEF OF THE COUNTY OF CUYAHOGA, OHIO AS AMICUS CURIAE IN SUPPORT OF PETITIONERS

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BRIEF OF THE COUNTY OF CUYAHOGA, OHIO AS AMICUS CURIAE IN SUPPORT OF PETITIONERS

INTEREST OF *AMICUS CURIAE*

Cuyahoga County submits this Brief as *amicus curiae* in support of Petitioners.[1] Home to the city of Cleveland, Cuyahoga County is the most populous county in the State of Ohio – one of the four states

[1] Pursuant to Supreme Court Rule 37.6, *amicus curiae* state that no counsel for any party authored this Brief in whole or in part, and that no entity or person, other than *amicus*, its members, or its counsel made any monetary contribution towards the preparation and submission of this Brief. In keeping with Supreme Court Rule 38.4, this Brief is submitted on behalf of the County of Cuyahoga, Ohio, by its authorized law officer.

subject to the opinion of the Sixth Circuit below. According to recent estimates, about 1.2 million people reside in Cuyahoga County, consisting of roughly ten percent of Ohio's total population today.[2]

The Cuyahoga County Division of Children and Family Services is one of the largest child-welfare agencies in the State of Ohio.[3] The Division's activities are regulated by both state[4] and federal law.[5] It deals on a regular basis with adoption and other issues related to same-sex parents.

The Division works tirelessly to ensure the health and safety of children and their parents, regardless of sexual orientation. In doing so, the Division considers the emotional, psychological, and physical well-being of children and their parents to be of prime importance, whether the parents are of the same or opposite sex.

The Division established the Lesbian Gay Bisexual Transgender Questioning (LGBTQ)

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[2] *See* U.S. Census Bureau – Cuyahoga County Quick Facts, *available at* http://quickfacts.census.gov /qfd/states/ 39/39035.html. (The exact numbers are 1,263,154, and 11,572,005, respectively, as estimated for the year 2013 (the last year for which data is available)).

[3] PCSAO FACT BOOK: 11TH EDITION, 2013-2014, Public Children Services Association of Ohio, available online at http://www.pcsao.org/PCSAOFactbook/11thEdition.html.

[4] *See* Ohio Revised Code, Ch. 5153.

[5] *See, e.g., See* Child Abuse Prevention and Treatment Act (CAPTA), 42 U.S.C. § 5101 et seq.; Multi-Ethnic Placement Act of 1994 (MEPA), Pub. L. No. 103-382; Adoption and Safe Families Act of 1997 (ASFA), Pub. L. 105-89, 111 Stat. 2115; and The Fostering Connections to Success and Increasing Adoptions Act, Pub. L. 110-351.

Committee in 2012 to support the Division and community partners in providing competent services to youth and families who identify as LGBTQ. To demonstrate the effects of the same sex marriage ban, and to ameliorate the hardships suffered by children and community members, the LGBTQ committee has collected statements from those affected by the ban – parents, children, and child welfare professionals alike.[6]

Amicus strongly believes that the children of same-sex parents are entitled to the same rights and privileges afforded by the Constitution to children of opposite-sex parents; and that, similarly, same-sex parents are entitled to the same rights and privileges afforded by the Constitution to opposite-sex parents. Amicus further believes that the legal foundation to this claim can be found in the Fourteenth Amendment, which guarantees both the "equal protection of the laws," and "due process" to "any person within its jurisdiction,"[7] regardless of sexual orientation.

But beyond the legal arguments, beyond the constitutional theories, and beyond the learned reasoning, Amicus believes that this Court should hear directly from those who have been – and are still being affected – by Ohio's ban on same-sex marriage. This Court should hear the voices of the children – boys and girls – who yearn to have two

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[6] These statements, and more about the work of the LGBTQ Committee, are available online at http://cfs.cuyahogacounty.us/en-US/II-LGBTQ.aspx and are reproduced in the attached Appendix.

[7] U.S. Const. Amend. XIV, § 1.

legal parents, just like all their friends; of the parents, who long to protect their children through stable, committed, and legally recognized relationships; and of the professionals – social workers, adoption agencies, family law attorneys, and other child welfare professionals – who witness the daily hardship, humiliation, and suffering that are merely a part of what constitutes a same-sex family unit in Cuyahoga County in 2015.

Amicus will bring forth the voices of school children who constantly fear the bigotry and prejudice they face at school with children taunting them for "not having a family;" and the voices of younger children who cannot tell the difference between "not legally recognized" and "criminal," fearing their parents are the latter; and those of parents who fear that in the event of death of one of them the other would not be able to establish any legal connection to their shared child; and of a veteran attorney who reveals the anxiety and frustration of parents when they find out that the non-biological parent has no standing or rights whatsoever with regard to the shared child. (See, Declarations attached to Appendix.)[8]

These, and the many other examples provided in the following pages, clearly demonstrate that regardless of the level of scrutiny with which this Court would find apt to review Ohio's same-sex

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[8] To protect the privacy and safety of the declarants, the declarant's identities have been redacted. The original signed declarations are on file with the Cuyahoga County Department of Law. These declarations are also available online at http://cfs.cuyahogacounty.us/en-US/II-LGBTQ.aspx.

marriage ban, the ban cannot survive judicial review due to its horrific, tragic, and unjustified implications – none of which correspond with any state interest.

It is because of these real stories and the actual discrimination that Cuyahoga County's same-sex parents and their children face each day that the County chose to file this Brief. As the governmental entity charged with protecting the welfare of children in its jurisdiction, Cuyahoga County could not stand idle in this case.

SUMMARY OF ARGUMENT

This case is about children who are discriminated against on account of their parents. It is also about parents who are discriminated against on account of their sexual orientation. It is about a differentiation between two kinds of parents – same-sex parents and opposite-sex parents. Such differentiation cannot survive constitutional scrutiny, as this Court has noted: "[this] differentiation demeans the [same-sex] couple, whose moral and sexual choices the Constitution protects and whose relationship the State has sought to dignify. And it humiliates tens of thousands of children now being raised by same-sex couples. The law in question makes it even more difficult for the children to understand the integrity and closeness of their own family and its concord with other families in their community and in their daily lives." *United States v. Windsor*, __U.S.__, 133 S. Ct. 2675, 2694 (2013) (internal citations omitted).

Amicus agrees with the Seventh Circuit's observation – adopted by the dissent in the cases

below – that while "[f]ormally these cases are about discrimination against the small homosexual minority in the United States [....] at a deeper level... they are about the welfare of American children." *Baskin v. Bogan*, 766 F.3d 648, 654 (7th Cir. 2014) (*cited in DeBoer v. Snyder*, 772 F.3d 388, 421 (6th Cir. 2014)). It is the "welfare of American children" that is at the center of this Brief. Amicus will demonstrate how both children of same-sex parents and the parents themselves are deeply affected by Ohio's ban on same-sex marriage and its refusal to recognize such marriages even if they took place in a jurisdiction recognizing such marriages.

Amicus advances two primary arguments. First, children who are raised by same-sex parents are entitled to the same rights and privileges afforded by the Fourteenth Amendment to children raised by opposite-sex parents. Second, same-sex parents are entitled to the same rights and privileges afforded by the Fourteenth Amendment to opposite-sex parents.

ARGUMENT

I. CHILDREN RAISED BY SAME-SEX PARENTS ARE ENTITLED TO THE SAME RIGHTS AND PRIVILEGES AFFORDED BY THE FOURTEENTH AMENDMENT TO CHILDREN RAISED BY OPPOSITE-SEX PARENTS.

The State of Ohio, through both its Constitution and laws,[9] denies same-sex couples the right to marry. It also refuses to recognize such marriages should they occur in a jurisdiction recognizing same-sex marriages. Thus, the State of Ohio shamefully

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[9] The Ohio Const. Art. 15 § 11 and Ohio Rev. Code Ann. § 3101.01(C).

deprives children of same-sex couples and their parents the equal protection of the laws and due process guaranteed to them by the Fourteenth Amendment.

The effects of Ohio's discriminatory laws are far-reaching. To fully comprehend them, however, one has to first consider the numbers. In the United States, an estimated 220,000 children are being raised by approximately 125,000 same-sex couples. See *Baskin*, 766 F.3d at 663.[10] Approximately 20,000 of those couples – nearly one in six of the national population – reside in Ohio. [11] Of those 20,000 couples, 19 percent are raising children under age 18 in their home. [12] Thus, more than 3,760 same-sex couples in Ohio are raising nearly 6,800 children.[13] Accordingly, a sizeable portion of the national population of same-sex couples living and raising children in Ohio are subject to the daily effects of the

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[10] Citing Gary J. Gates, *LGBT Parenting in the United States*, 3 (Williams Institute, UCLA School of Law, Feb. 2013), *available at* http://williamsinstitute.law.ucla.edu/wp-content/uploads/lgbt-parenting.pdf, ("there are approximately 125,000 same-sex couples raising nearly 220,000 children").

[11] *See* Gary J. Gates, *Same-Sex Couples in Ohio: A Demographic Summary*, April 2014, *available at* http://williamsinstitute.law.ucla.edu/wp-content/uploads/OH-same-sex-couples-demo-apr-2014.pdf. ("Tabulations from Census 2010 show that there are 19,684 same-sex couples living in Ohio.") Overall, Ohio is home to 11.5 million people (*see supra*, note 2), which consists of only 3.5% of the total 320 million people currently living in the entire United States (*see* http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk).

[12] Gates, *Same-Sex Couples in Ohio, Id.*

[13] *Id.*

same-sex marriage ban. Similarly, thousands of children, whose only "crime" was that they are raised by same-sex parents, are punished every single day by the State's refusal to recognize their parents' marriage.

A. Ohio's Same-Sex Marriage Ban Discriminates Against Children of Same-Sex Parents Because It Prevents Those Children From Having Two Legally-Recognized Parents Like Children of Opposite-Sex Parents.

The Equal Protection Clause mandates that "all persons similarly situated should be treated alike." *City of Cleburne v. Cleburne Living Ctr., Inc.*, 473 U.S. 432, 439 (1985). Ohio's same-sex marriage ban treats children of same-sex parents differently from similarly situated children of opposite-sex couples. In particular, Ohio allows married couples, single persons, and step-parents to adopt. [14] Conversely, Ohio adoption laws prohibit same-sex couples from jointly adopting their children because same-sex couples are unable to marry. In fact, due to Ohio's same-sex marriage ban, step-parent adoptions are likewise unavailable to same-sex parents in Ohio.

The case of *In Re Adoption of Doe*, 130 Ohio App. 3d 288 (1998) is instructive. There, Ohio's Ninth Appellate District considered a motion by a same-sex partner of the biological parent (the second parent) to

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[14] Ohio Rev. Code § 3107.03, which limits the type of persons allowed to adopt in the State of Ohio, does not include same-sex partners who are unable to marry; as a result, they are not allowed to jointly adopt.

adopt the biological minor child raised by both. *Id.*, at 289. The court found that the second parent was a suitable person to adopt; the court also found that the adoption was in the child's best interest. *Id.* Still, the court denied the second parent's motion, holding that adoption by the same-sex partner (an unmarried adult) would automatically trigger a termination of the parental rights of the legal biological parent. *Id.* at 292. To reach this result, the court first asserted that "'[a]doption' in Ohio is a creature of statute." *Id.* at 290 (internal citations omitted.) It then held that according to the statute, granting the same-sex partner's motion would have "the effect of terminating all parental rights of [the] biological parent[]." *Id.* at 291.

In other words, granting the wish of one parent to adopt would lead the other parent to lose all legal rights they had towards the child. The court heartlessly presented the same-sex parents with a *reverse* King Solomon dilemma, requiring them to choose who will be the one – and only one – who will have legally-recognized ties to the child.

Such an absurd result – the termination of parental rights of the biological parent upon a motion to adopt by the other parent[15] – would never even be contemplated for an opposite-sex couple seeking to jointly adopt their child. Such discrimination is unjustifiable, and the Constitution cannot tolerate such a distinction.

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[15] *See also* Susan J. Becker, *Second-Parent Adoption by Same-Sex Couples in Ohio: Unsettled and Unsettling Law*, 48 CLEVELAND STATE LAW REVIEW 101, 125 (2000).

As the district court in *Obergefell* has noted: "[In Ohio], while opposite-sex married couples can invoke step-parent adoption procedures or adopt children together, same-sex married couples cannot. While Ohio courts allow an individual gay or lesbian person to adopt a child, a same-sex couple cannot." *Obergefell v. Wymyslo*, 962 F. Supp. 2d 968, 980 (S.D. Ohio, 2013). Such practices, among others, have led the district court to hold both Ohio Constitutional and statutory bans on same-sex marriage unconstitutional. This result should be affirmed here.

1. As *Windsor* Demonstrates, Ohio's Same-Sex Marriage Ban Demeans, Humiliates, and Stigmatizes Children Raised by Same-Sex Parents.

Striking down as unconstitutional a key provision of the Defense of Marriage Act (DOMA), this Court in *Windsor*, __ U.S. __, 133 S. Ct. 2675 (2013), entertained the proposition that laws discriminating against same-sex couples solely on the basis of their sexual orientation cannot withstand constitutional scrutiny. The Court also noted the demeaning effect such laws have on same-sex parents, and the humiliating effect they have on their children:

> DOMA undermines both the public and private significance of state-sanctioned same-sex marriages; for it tells those couples, and all the world, that their otherwise valid marriages are unworthy of federal recognition. This places same-sex couples in an unstable position of being in a second-tier marriage. The differentiation *demeans* the couple, whose

> moral and sexual choices the Constitution protects, [....], and *it humiliates tens of thousands of children now being raised by same-sex couples.* The law in question makes it even more difficult for the children to understand the integrity and closeness of their own family and its concord with other families in their community and in their daily lives.

Id. at 2694 (emphasis added).

But the Court did not stop there. Finding that DOMA unreasonably denies same-sex couples federal recognition of their marriages, this Court emphasized that the "avowed purpose and practical effect of the law here in question are to impose a disadvantage, a separate status, and so *a stigma* upon all who enter into same-sex marriages made lawfully by the unquestioned authority of the States." *Id.* at 2693 (emphasis added). Thus, this Court has recognized the demeaning, humiliating, and stigmatizing effects of a law that does not *ban* same-sex marriages, but merely refuses to *recognize* them, finding it unconstitutional. A *fortiori*, where the law in question not only refuses to recognize, but completely bans such marriages, the same logic should follow.

The stories captured in the declarations cited in this Brief are merely a few, representative examples of these stinging effects of fear, humiliation, and stigma that same-sex families face in Cuyahoga County every day.[16] Take, for example, the case of

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[16] To protect the privacy and safety of the declarants, the declarant's identities have been redacted. The original signed

Child 2, who was raised by two same-sex parents and now has a daughter of his own. Speaking about his experiences growing up, he notes that "[o]f course the legal aspects were extremely detrimental to my family [...], but the social and psychological damage that is being perpetuated by the state was just as difficult." Decl. Child 2, ¶8. When Child 2's mother met her partner, "I finally received the love from a second parent that I did not know existed. I bonded with her as I had never done with anyone else before. [...] [She] taught me what it was to be respectful, to have a work ethic, and to take pride in everything I do. All of the core values that I pride myself on today and work to instill in my daughter were taught to me by her." *Id.*, at ¶5. Yet, growing up, Child 2 "spent the majority of my teenage years afraid to tell people about someone SO important to me." *Id.*, at ¶7. The same-sex marriage ban and its resulting stigma forced him to hide his family from society so he could "protect my family from the bigotry and prejudice that they would be sure to face at community events and school activities." *Id.*

Or take the example of Jane Doe 4's children. Despite being legally married in New York, Jane Doe 4 found out upon arriving to this great state that "legally speaking, our family doesn't exist in Ohio, and countless other places, and that reality has a direct correlation with how other people view us." Decl. Jane Doe 4, ¶4. Jane Doe 4 has two children, a

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declarations are on file with the Cuyahoga County Department of Law. All Declarations cited in this Brief are included in the attached Appendix. They are also available online at http://cfs.cuyahogacounty.us/en-US/II-LGBTQ.aspx.

son and a daughter. At age 6, her son "was worried that we would be arrested upon re-entering Ohio. In his mind, since same-sex marriage is not legal in Ohio, our marriage effectively made us criminals." *Id.*, at ¶6. As for her 11-year old daughter, she has been brutally taunted at school by children claiming that she doesn't "have a family" and constantly asking her "how does it feel to not have a family?" *Id.* at ¶5. The taunts, to be sure, "don't begin or end there," *Id.*, but are of much prolonged nature.

Similarly, Jane Doe 9's children constantly had to "prove they were smart, talented, and socially skilled, in order to be as good as the students from 'normal' families. They succeeded;[sic] good grades, well-liked, athletic, leaders. Even so, they were often not welcomed into the homes of some of their friends." Decl. Jane Doe 9, ¶3.

As one of the same-sex parents has noted, a clear ruling from this Court in favor of marriage equality "would send a strong message that [having such a family] is an accepted form of family," which is "especially important to children, and even more so adopted children, who are trying to figure out their place in the world." Decl. Jane Doe 1, ¶8.

2. Ohio's Same-Sex Marriage And Recognition Bans Prevents Children From Establishing A Legal Relationship With Their Parents, Thereby Depriving Them of the Emotional and Financial Benefits Afforded to Children of Opposite-Sex Parents.

The refusal to allow same-sex parents to jointly adopt their children has been described as "[t]he most arbitrary feature" of the state's treatment of same-sex couples. *Baskin,* 766 F.3d at 671. This refusal damages not only the parents; it also "harms children, by telling them they don't have two parents, like other children, and harms the parent who is not the adoptive parent by depriving him or her the legal status of a parent." *Id.* Thus, although the same-sex parent has established a long-lasting and loving relationship with the child, he or she "remain[s] a total stranger to the child in the eyes of the law." Susan J. Becker, *Second-Parent Adoption,* at 107-108.

Neither those arbitrary features nor the fact that one of the parents remains a complete legal stranger to the child were ever discussed in the majority opinion below. The court merely paid lip-service to the constitutional rights implicated – and disparate treatment caused – by the same-sex marriage bans enforced by the States of Ohio, Michigan, Kentucky, and Tennessee. [17] Only in the dissent did Judge

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[17] The dissent shares this view. *See DeBoer*, 772 F.3d at 421 (Daughtrey, J. dissenting) ("[The majority] wholly fails to grapple with the relevant constitutional question in this appeal

Daughtrey courageously redirect the focus to the effect of marriage equality bans on American children. See, *DeBoer*, 772 F.3d at 422.

The harmful and stigmatizing effects of the same-sex marriage bans on children and their parents have been well-documented.[18] For example, Professor Susan Becker has noted that "a child's attachment to his or her 'psychological parent' is extremely well-documented and important, and that disruption to that relationship for any period of time can be exceedingly detrimental to the child." Becker at 114.

Yet, the marriage and recognition bans, like those in Ohio, lead to absurd results following the death or incapacitation of the legal parent. "[T]here is no legal guarantee that the court will either award guardianship to [the non-legal] parent or eventually permit him or her to adopt the child." *DeBoer v. Snyder*, 973 F. Supp. 2d 757, 763, (E.D. Mich. 2014.)

While the legal parent can use a power of attorney appointing the non-legal parent as the child's guardian, there is no guarantee that a probate court would honor the appointment. Becker at 108, n. 51. Same-sex couples in Ohio can petition the court

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[....] [In fact,] the majority treats both the issues and the litigants here as mere abstractions.")

[18] See *Bostic v. Schaefer*, 760 F.3d 352,372, n.4 (4th Cir. 2014) (Striking down Virginia same-sex marriage ban, which similarly imposed a functional ban on adoption by same-sex couples). The Fourth Circuit noted that "Virginia Marriage Laws actually harm the children of same-sex couples by stigmatizing their families and robbing them of the stability, economic security, and togetherness that marriage fosters." *Id.* at 383.

for shared custody. *In re Bonfield*, 97 Ohio St. 3d 387 (2002). This, however, is an inadequate substitute to full parental rights accorded through an adoption.

Ohio's adoption law, as restricted by the unconstitutional same-sex marriage and recognition bans, shamefully allows any individual possessing an interest in the child's welfare – "a distant relative of the child, a neighbor, teacher, or 'anyone who claims to have an interest in the child'" – to sever the child's relationship with his or her psychological and real parent. *DeBoer*, 772 F.3d at 763 (Daughtrey, J., dissenting) (internal citations omitted.)

The *DeBoer* district court in Michigan also noted that these children are placed in a state of "'legal limbo' if that parent dies or is incapacitated." *Id.* at 764. Indeed, the very idea of removing a child from the custody and care of a loving and devoted parent, for no reason other than that parent's sexual orientation, simply cannot stand to reason. The effects of such removal are devastating, both to the child and to the surviving parent. It is undisputed that children raised by opposite-sex couples never need to endure such horror. This, again, is yet another example of the discrimination that cannot – and should not – survive constitutional scrutiny.

In addition to its same-sex marriage ban, Ohio applies a same-sex marriage recognition ban – effectively terminating same-sex marriages conducted elsewhere. *See*, Ohio Rev. Code § 3101.01(C)(3). That ban, much like the marriage ban, has "a destabilizing and stigmatizing impact," on the people it targets – an impact no opposite-sex couple must endure. *Obergefell v. Wymyslo*, 962 F. Supp. 2d

968, 979 (2013). And the children, again, are harmed: "[t]he only effect the bans have on children's well-being is harming children of same-sex couples who are denied the protection and stability of having parents who are legally married." *Id.*, at 994-995. Here too, to state the obvious, no children of opposite-sex parents will ever have to endure the consequences of the parents' nuptials taking place in another American jurisdiction.

These court findings are supported by testimonials of same-sex children in Cuyahoga County. Thus, for example, John Doe 1's children do not fully comprehend their precarious legal position, and the likelihood of facing separation from one of their parents should disaster strike with the other parent. Instead, this year, John Doe 1's eight-year-old daughter told him that "her birthday wish was that her Daddy and Papa could get married." Decl. John Doe 1, ¶8.

Or take the case of Jane Doe 9, whose former husband – and the father of her children – died within a week of her own father's passing. Her same-sex partner became a parent to her devastated children. The partner bonded with the children in a way their biological father never could, but the uncertainty of her legal relationship to her children took a visible toll. For example, the youngest son "alternated between acting out and clinging to both of us but particularly my partner, his 'other' mom [....] She never missed a basketball, baseball, or football game. She was there when he was angry or sad or both. He took comfort in her for many reasons." Decl. Jane Doe 9, ¶6.

Despite the real relationship that developed between Jane Doe 9's partner and her son, the son continued to experience "persistent worry about the loss of another parent." *Id.* at ¶8. He turned down a college scholarship because "he was afraid to leave us because he worried that something would happen to one of us." *Id.* Thus, Ohio's ban on same-sex marriage deprived this young man of academic and professional opportunities.

Or take the case of Child 1. She was happy to receive her mother's partner as her own new parent: "She cared for us when we were sick, helped us with bills, attended our sporting events, and offered us unconditional love. She walked us down the aisle and has been present for the birth of five grandchildren." Decl. Child 1, ¶4. Her new mother thus successfully filled the void left by her former, absentee, alcoholic, but biological father.

In spite of this, and because of Ohio's same-sex marriage and recognition bans, Child 1 grew up with the fear that, should something bad happen to their biological mother, she and her siblings would be required to separate from their new mother and "would [be] forced to live with a relative that was merely an acquaintance to us instead of the only other parent we had known." Decl. Child 1, ¶5.

Another example is that of Jane Doe 4. This same-sex mother has witnessed first-hand the hardship and suffering her kids had to endure due to the extra daily scrutiny by their peers. Now, when asked about having more children, she admits that she does not know if she could, in good conscience, "ever expand her family and do that to more

children." Decl. Jane Doe 4, ¶13. As Jane Doe 1 has noted with regards to her children:

> [T]o have their family recognized as legitimate and real in the eyes of the government can give a sense of security and legitimacy to [our children's] lives. They are not able to fully understand the legal ramifications, but they are able to hear the fear in our voices when they ask what would happen to them if one of us were to die and we cannot promise that the plans we have set up would be honored.

Decl. Jane Doe 1, ¶8.

Ultimately, same-sex parents "accept all the responsibilities of marriage – to love, honor, and care for one another and our children –without any of the rights or protections." Decl. John Doe 1, ¶9. As another pair of mothers summed it well, "to not be recognized as a full parent is an indignity. And Ohio is doing this daily." Decl. Jane Doe 7&8, ¶7.

There is no legitimate reason to justify the difference in legal treatment between children raised by same-sex parents and similarly-situated children raised by opposite-sex couples. "The overwhelming scientific consensus, based on decades of peer-reviewed scientific research, shows unequivocally that children raised by same-sex couples are just as well adjusted as those raised by heterosexual couples." *Obergefell*, 962 F. Supp. 2d at 994, n.20 (emphasis omitted). The expert in the *DeBoer* case similarly "found no statistically significant differences in general characteristics or in development between children raised in same-sex

households and children raised in opposite-sex households, and that the psychological well-being, educational development, and peer relationships were the same in children raised in gay, lesbian, or heterosexual homes." *DeBoer*, 772 F. 3d at 425 (Daughtrey, J., dissenting).[19]

Without the possibility of creating a meaningful, legally recognized tie to their second parents, the children of same-sex parents live in fear and uncertainty that – in the event something bad happens to one parent – they would be forced to lose both. This result is unjust, unfair, and unequal. It should cease.

B. Ohio's Same-Sex Marriage And Recognition Bans Harm Children As They Prevent Adoption and Foster Parenting by Same-Sex Parents.

Experts have found that the same-sex marriage and recognition bans increase the potential risks to children awaiting adoptions and placement in permanent homes. *DeBoer*, 722 F.3rd at 424-25 (Daughtrey, J., dissenting). *See also* Becker, at 115. There are many children in foster homes waiting to

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[19] *See also Deboer v. Snyder*, 973 F. Supp. 2d at 763, (E.D. Mich. 2014) (expert noted several reputable organizations "expressing support for parenting, adoption, and/or fostering by lesbian and gay couples include (but are not limited to): American Medical Association, American Academy of Pediatrics, American Psychiatric Association, American Academy of Child and Adolescent Psychiatry, American Psychoanalytic Association, American Psychological Association, Child Welfare League of America, National Association of Social Workers, and the Donaldson Adoption Institute").

be adopted. In 2011, there were approximately 400,000 children in foster care. [20] In 2013 in Cuyahoga County, there were on average 1,800 children per month in state custody, and 375 children per month awaiting adoption.

By prohibiting same-sex couples from adopting these children as a couple, marriage bans have a chilling effect on adoptions and foster care placements. "[S]ame sex marriage improves the prospects of unintended children by increasing the number and resources of prospective adopters." *DeBoer*, 722 F.3d at 423 (Daughtrey, J, dissenting). In *Campaign for Southern Equal. v. Bryant,* No. 3:14-CV-818-CWR-LRA, 2014 U.S. Dist. Lexis 165913, at*85 (S.D. Miss. Nov. 25, 2014), the court noted that "given the number of children in [...] any state—awaiting placement in a stable family environment, it is irresponsible to deny those children the shelter and enrichment that same-sex families can provide." *Id.*

Ohio's marriage ban discourages the adoption of children and foster parenting. Such laws disincentivize same-sex couples from adopting children:

> Even though one person can legally adopt a child, should anything happen to the adoptive parent, there is no [....] legal framework that

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[20] *Baskin v. Bogan*, 766 F.3d at 663, citing to the U.S. Dept. of Health & Human Services, Children's Bureau, "How Many Children Are in Foster Care in the U.S.? In My State?" www.acf.hhs.gov/programs/cb/faq/foster-care4.

> would 'ensure that the children would necessarily remain with the surviving non-legal parent,' even if that parent went through the arduous, time-consuming, expensive adoption-approval process [....] [States] would save money by moving children from foster care or state care into adoptive families, and although same-sex couples [...] are almost three times more likely than opposite sex couples to be raising an adopted child and twice as likely to be fostering children, there remains a legal disincentive for same-sex couples to adopt children [....]

DeBoer, 772 F.3d at 424-425 (Daughtrey, J., dissenting).

Finding a home for a lost child is one of Cuyahoga County's primary responsibilities through its child welfare agency. States, legislators, and courts have always lauded that goal. No child – definitely no court – can accept a diversion from this objective solely based on sexual orientation.

II. Same-Sex Parents Who Raise Children are Entitled to the Protections Afforded by the Fourteenth Amendment.

The Fourteenth Amendment guarantees all parents – regardless of gender, race, or sexual orientation – a fundamental liberty interest in the "care, custody, and control of their children." *Troxel v. Granville*, 530 U.S. 57, 65 (2000). In fact, as this Court has noted, this liberty interest "is perhaps the oldest of the fundamental liberty interests recognized

by this Court." *Id.* Such fundamental interest, the Court emphasized, "'includes the right of parents to establish a home and bring up children.'" *Id.* (internal citations omitted).

The "right of parents," in turn, means that the State has limited powers when it comes to intervening in the relationship between a parent and his or her child: "the child is not the mere creature of the State; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations." *Id.* See also, *Meyer v. Neb.*, 262 U.S. 390, 399 (1923) (interest protects parents' rights "to control the upbringing and education of children," which is "as essential to the orderly pursuit of happiness by free men.")

A. Ohio's Same-Sex Marriage Ban Discriminates Against Same-Sex Parents As It Denies Them The Most Fundamental Liberties Offered By The Fourteenth Amendment to Opposite-Sex Parents.

The rights of "those who nurture [the child] and direct his destiny" are of the highest stakes in this case. If this Court let the Sixth Circuit decision stand, the very liberty interests enjoyed by all – the fundamental liberty interests that are the oldest to be recognized by this Court – would not apply only to a certain group of parents who are of the same sex.

In the eyes of the law, these parents will not be able to care for, take custody of, or control their children. In the eyes of the law, these parents will

not be able to establish a home and bring up children. In the eyes of the law, these parents will not be able to nurture and direct their children's destiny, due to no crime, no harm to the children, and no fault of their own.

It is solely due to discrimination, animosity, and bigotry towards the parents' sexual orientation. The Fourteenth Amendment must not, indeed cannot, tolerate such treatment of one particular group of parents. This Court should make this clear.

This Court has long emphasized its "tradition of interpreting the Due Process Clause to protect certain fundamental rights and 'personal decisions relating to marriage, procreation, contraception, family relationships, child rearing, and education,' and noted that many of those rights and liberties 'involve the most intimate and personal choices a person may make in a lifetime.'" *Washington v. Glucksberg*, 521 U.S. 702, 726 (1997) (internal citations omitted). Such "fundamental rights and personal decisions" are precisely at stake here.

This Court has also observed that "[f]amily relationships, by their nature, involve deep attachments and commitments to the necessarily few other individuals with whom one shares not only a special community of thoughts, experiences, and beliefs but also distinctively personal aspects of one's life." *Roberts v. U.S. Jaycees*, 468 U.S. 609, 619-20 (1984). Such "deep attachments" and "special community of thoughts" should be enjoyed by all parents, not only those of opposite sex. Neither the Constitution nor this Court have ever recognized a reason to distinguish between groups of parents

based on their sexual orientation. Ohio should not do so now.

Unfortunately, the existing same-sex marriage and recognition bans – such as Ohio's – intentionally create such unconstitutional discrimination. The bans patently infringe upon the rights of parents to care for their children. They "burden[] the ability of the child's parents to exercise their parental rights and responsibilities." *Henry v. Himes*, 14 F. Supp.3d 1036, 1050 (S.D. Ohio, 2014) (emphasis omitted.) They irreparably harm the parent-child relations. As the Ninth Circuit has observed:

> [I]n extending the benefits of marriage only to people who have capacity to procreate, while denying those same benefits to people who already have children [the States] materially harm and demean same-sex couples and their children. Denying children resources and stigmatizing their families on this basis is illogical and unjust. It is counterproductive, and it is unconstitutional.

Latta v. Otter, 771 F.3d 456, 472-73 (9th Cir. 2014) (internal citation omitted.)

The sacred bond between a parent – any parent – and their child cannot be interrupted by a line in Ohio's Revised Code or its State Constitution.

1. Ohio's Denial of Fundamental Parental Rights from Same-Sex Parents Amounts to "Every Parent's Worst Nightmare."

While this Court has been a staunch defender of parental rights for close to a century, one group of parents – one distinct, well-identified, and well-established group – has been left out. The group of same-sex parents, who raise their children with the same amount of love, affection, and care as many of their opposite-sex counterparts, received no rights from this Court. They received no protection, and, until the Court's recent decision in *Windsor*, received no recognition either. This situation should end today. Indeed, many states have already recognized the unconstitutional – not to mention demeaning and degrading – nature of such a targeted discrimination against one group of parents.[21] Shamefully, however, several other states still allow this sad state of affair to continue. And Ohio is one of these states. Such deprivation of fundamental rights harms those parents. It stings them every day, as they are reminded, constantly, that they are not entitled to the most basic rights and privileges that all other parents – but them – take for granted.

As noted by one pair of same-sex parents in Cuyahoga County, "imagine raising your own child and not having these fundamental rights like being able to make a medical decision at a life threatening

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[21] Currently, 36 states allow same-sex marriages and therefore full parental rights. See, Jurisdictions With Marriage Equality, *available at* http://www.lambdalegal.org/publications/nationwide-status-same-sex-relationships#2.

moment. This would be every parent's worst nightmare and it is a true picture for same-sex parents in Ohio." Decl. Jane Doe 7 & 8, ¶4.

Same sex parents are forced to choose "who would become the legal adoptive parent" – a choice no opposite-sex couple is forced to make. Decl. John Doe 1, ¶5. Thus, wanting both of his children to be legally related, John Doe 1 was forced to tell the other parent that he had no legal rights towards the children they both raised, and he was not permitted to be present when the adoption of both was finalized. An opposite-sex parent cannot even imagine such a plight.

2. Ohio's Denial of Fundamental Parental Rights Imposes an Extremely Heavy Burden – Financial and Otherwise – on Same-Sex Parents.

Deprived of the rights afforded as a matter of course to their opposite-sex counterparts, same-sex parents in Ohio are forced to expend "thousands of dollars in legal fees" in their attempt to create tenuous legal substitutions to the legally-recognized status of marriage. Decl. Jane Doe 4, ¶9. See also, Decl. Jane Doe 1, ¶7; Decl. Child Welfare Professional 2, ¶5. They do so in myriad ways – through wills, shared parenting agreements, powers of attorney, and more. Decl. John Doe 1, ¶7.

Thus, same-sex parents are burdened in ways that an opposite-sex parent could never imagine: "We keep documents at home and have provided them to the schools and pediatrician. We have also carefully written our Wills so that in the event that something

were to happen to me, our children should remain with [the non-married other parent]as the legal guardian." Decl. Jane Doe 1, ¶7. One couple even resorted to "filing a petition to adopt in an out-of-state probate court using [an] Ohio home study," but "Ohio would not issue new birth certificates for the children documenting the court's decision." Decl. Child Welfare Professional 1, ¶5.

Another example well demonstrates the complexity of inter-state same-sex parenting. Despite being legally married in Pennsylvania, and after "applying for legal guardianship and filing a shared parenting plan" in Ohio, Jane Doe 5 will have to raise her daughter knowing that her wife's parents, "who have struggled to accept their daughter's sexuality and her decision to move to Cleveland, would be given preference." The daughter that she prepared so long for could be ripped away. Decl. Jane Doe 5&6, ¶7. Jane Doe 5's parents, the child's non-biological grandparents, "would not likely receive visitation or continuation of their relationship with our child." *Id.*

Finally, in the event of the non-biological mother's death, the child could not legally inherit from her estate and could not receive social security benefits or other death benefits. *Id.* See also, Decl. Jane Doe 4, ¶12 ("[T]he reality is that my parents (who are only mildly tolerant of our life) could fight in court to obtain custody and possibly win, even though [the other parent] has been their parent their entire lives." Decl. Jane Doe 1, ¶7.

Same-sex parents are deprived of the benefits of healthcare, visitation, and decision-making;

adoption, custody, and other parental rights; tax, wills and estates and probate benefits. At times, Jane Doe 1's wife "would have to call me at work and pull me out of meetings to give permission for her to talk to a teacher about an issue at school, or give permission for the doctor to treat our child because she was the one at the appointment." Id., ¶6.

Same-sex parents are limited in their ability "to make legal, academic, and health decisions for [the legal child]." Decl. Jane Doe 4, ¶10. Carving out exceptions "to allow the other, non-legal parents, to make decisions on a daily basis would have to be made, on a case-by-case basis, if the non-legal parent brought the proper legal paperwork, and the person receiving the paperwork was amenable to it." Id.

Same-sex parents cannot even put both parents' names on their children's birth certificates – "the basic currency by which parents can freely exercise these protected parental rights and responsibilities." *Henry v. Himes,* 14 F. Supp.3d at 1050 (emphasis omitted). This inability "saddles the child with the life-long disability of a government identity document that does not reflect the child's parentage and burdens the ability of the child's parents to exercise their parental rights and responsibilities." *Id.* (citations omitted) (emphasis omitted.)

3. Ohio's Denial of Fundamental Parental Rights Negatively Affects Same-Sex Parents' Employment Opportunities.

Finally, same-sex parents are limited in their career opportunities. They are forced to find jobs that voluntarily offer benefits to same-sex domestic partners. See, Decl. Jane Doe 5 and 6.

Even where employers provide health coverage for same-sex partners, Jane Doe 4 found that when her wife lost her job, Jane Doe 4 was unable to add her wife onto her insurance until the next open enrollment period – purely because Ohio did not recognize their marriage. The financial burden was significant, and had the roles been reversed, Jane Doe 4's children would have been without insurance.

For Jane Doe 7 and Jane Doe 8, building a future together "entailed immigrating to the UK, which although financially pricey, was a relatively simple and straight forward process." Decl. Jane Doe 7 & 8, ¶3. Like Jane Doe 7 and Jane Doe 9, many same-sex parents find parenting in Ohio to be so oppressive that these talented individuals, and dedicated parents, leave the state entirely. Decl. Attorney 1, ¶3.

Ohio's marriage and recognition bans render the most basic right of parents "incredibly daunting and would be crushingly expensive." Decl. Jane Doe 4, ¶10. And ultimately, "there is no amount of money or paperwork that will ever give [the child] the same security as her peers." Decl. Jane Doe 5 & 6, ¶8; see also, Decl. John Doe 1, ¶7. It is heartbreaking to see

"the anxiety and frustration in many parents' faces when I tell them that the non-biological parent (or non-adoptive parent) has no legal standing or rights with regard to their children."

B. Ohio's Same-Sex Marriage Ban Turns Same-Sex Parents into Second-Class Citizens.

Same-sex parents are similarly situated to opposite-sex parents regarding their children, yet they are treated differently by the laws and Constitution of Ohio. They are precluded from enjoying the Constitutional and statutory benefits afforded to opposite-sex couples. This Court found that such discrimination leads to a second-class status. Same-sex parents deserve protection from such discriminatory laws.

The list of benefits extended to opposite-sex couples and their children – and excluded to all same-sex parents – is long. Those benefits are scattered throughout federal and state law. See *Windsor*, 133, S. Ct. 2695 (2013) (describing a litany of financial benefits afforded under federal law and regulations only to opposite-sex couples.) This Court should end this disgraceful – and unconstitutional – discrimination today.

CONCLUSION

On behalf of the children whose welfare Cuyahoga County is charged with protecting, the County urges this Court to stop the unconstitutional discrimination against them and their same-sex parents.

The Sixth Circuit's majority's "wait and see" approach cannot stand. Seventeen years ago, an Ohio Court of Appeals, in *In re Adoption of Doe*, 130 Ohio App. 3d 288, took the same approach refusing to allow a same-sex parent to adopt their child until a legislative change arrives. The law in Ohio has not changed since. Those children are now adults.

Today's children and their same-sex parents should not be required to sustain another seventeen years of humiliation, discrimination, and second-class stigma in anticipation of an unpredictable legislative change of heart. The children and their parents whose stories are told in this Brief are seeking justice from this Court. They are looking to this Court to properly apply the Fourteenth Amendment of their Constitution, which guarantees "the equal protection of the laws" to "any person within its jurisdiction," regardless of that person's age, gender, or sexual orientation.

A "court owes no deference to a legislature's judgment" of a "quintessentially legal question." *Kelo v. City of New London*, 545 U.S. 469, 517 (2005)(O'Connor, J, dissenting). The Equal Protection and Due Process clauses are, by definition, limits on the powers of government and must be applied in this matter. There is no justification for deferring to legislatures on the interpretation of the constitutional limits on their powers. The Court should not subcontract the exercise of its constitutional judicial review powers to the whim of state legislatures.

Another generation of American children should not be forced to wait a single day to enjoy the

full rights and privileges guaranteed by their Constitution. They have waited long enough.

For these and the other reasons stated above, the Sixth Circuit's decisions in the cases below should be REVERSED.

Respectfully submitted,

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APPENDIX

APPENDIX

Decl. John Doe 1 ..... 2A
Decl. Jane Doe 1 ..... 6A
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IN THE SUPREME COURT OF THE UNITED STATES

JAMES OBERGEFELL, ET AL., AND BRITTANI HENRY, ET AL., *Petitioners*, v. RICHARD HODGES, DIRECTOR, OHIO DEPARTMENT OF HEALTH, ET AL., *Respondents*.	)	**CASE NO. 14-556,** **DECLARATION OF JOHN DOE 1**

I, G[redacted], under 28 U.S.C. § 1746, declares as follows:

1. I have personal knowledge of all facts recited herein.

2. I am over eighteen years old and competent to make the following representations and give the following consent in this matter.

3. On New Year's Day this year, my partner and I just celebrated our 25th anniversary. We met in Nashville, Tennessee, in 1990 and lived there for 10 years before moving to Cleveland. I grew up in a western suburb of Cleveland and moved back to be close to my parents and brothers who live in the area. We also wanted to adopt children and thought it would be easier in Ohio than Tennessee—that was before the constitutional ban on same-sex marriage in Ohio.

4. We became licensed foster and adoptive

parents in 2003, and shortly afterwards our son was placed with us as a foster child. The county determined that we were the family most able to meet our son's needs and entrusted him to our care. We were both his foster fathers for a year. When he was available for adoption after a year, only one of us could be his legal adoptive parent because we were not able to be married. We decided that I would become the legal adoptive parent, chiefly because I had better health benefits. On the day that the adoption was finalized, the magistrate invited me into her office but not my partner until after the finalization was complete. What should have been a celebration was a bittersweet moment for both of us.

5. In 2007, we were fortunate to adopt a second child and our daughter joined our family. Once again, we had to decide who would become the legal adoptive parent. Once again, we choose me, not just because of benefits, but because we wanted to children to be legally related as siblings. If my partner had been the legal adoptive parent of our daughter, our children would not have been legally related. Once again, we had the bittersweet experience of my partner not being included in the actual adoption finalization.

6. We are both parents in the eyes of our children. They treat us equally as parents. We wish that the law would treat us equally as well. Fortunately, we work for supportive companies, who gave us both family leave at the point that the children were placed with us and sick days when our children are ill, though my partner's company is not required to do so. My partner actually takes more days off when one of the children is sick or there is no school. We are grateful for this support, but we

should have this protection by law rather than depend on the good nature of an organization or supervisor.

7. We have worked with an attorney at considerable expense to protect ourselves through our wills, powers of attorney, and a joint custody agreement. We still feel vulnerable, however, and do not have the same legal protections that marriage would give us instantly. The children have asked what would happen if something were to happen to me. We have had to explain that we do not have the same assurance as a married couple that the surviving parent would be able to continue to parent without a legal proceeding. Our children yearn for the security that marriage would bring to our family. They want our family to be like other families.

8. We want to be married in Ohio. We could go to another state, but this has been our home for 15 years and my family is here. In addition, if the marriage is not recognized by the State of Ohio it is not worth much to us. We celebrated our daughter's eighth birthday yesterday. She told me that her birthday wish was that her Daddy and Papa could get married. I hope that her wish comes true this year. And I hope that my parents—who have been married for 63 years and who are now too elderly to travel to another state to watch us wed—will be able to witness it.

9. We accept all the responsibilities of marriage—to love, honor, and care for one another and our children—without any of the rights or protections. Our children, families, friends, neighbors, co-workers, and fellow church members regard us as they would any married couple. We ask

that the State of Ohio would treat us the same way by allowing us to be married.

I declare under penalty of perjury that the foregoing is true and correct to the best of my actual knowledge and belief.

Executed on 24th day of February, 2015 in Cuyahoga County, Ohio.

/s/ G[redacted]

IN THE SUPREME COURT OF THE UNITED STATES

JAMES OBERGEFELL, ET AL., AND BRITTANI HENRY, ET AL., *Petitioners*, v. RICHARD HODGES, DIRECTOR, OHIO DEPARTMENT OF HEALTH, ET AL., *Respondents*.	)	**CASE NO. 14-556**
	)	**DECLARATION OF JANE DOE 1**

I, M[redacted], under 28 U.S.C. § 1746, declares as follows:

1. I have personal knowledge of all facts recited herein.

2. I am over eighteen years old and competent to make the following representations and give the following consent in this matter.

3. Marriage equality is an issue that affects people and society in a number of ways. Since a young age I have believed in the idea of Marriage Equality, even before it was a recognized movement,

based on ethical principles that all people deserve the same rights. However, as an adult I now have a very real and concrete life that is affected by this issue. These are some points from my life that can give a picture of how this issues affects a real family:

4. My wife and I have been together for over 2 decades. In 1995 we had a Holy Union Ceremony. This had all the makings of a real marriage complete with a Church service, and reception where we were surrounded by our family friends while we promised our lives to each other and celebrated. As much as this was very real to us, and we have lived a "married life" ever since, we were always aware that we were not recognized in the same way that couples who have a legally recognized union are.

5. In the years following our Union, we adopted 5 children through the foster care system. While we were fortunate enough to find an adoption agency that was welcoming, there were constant reminders of how our situation was different from other families. In one particularly painful situation a social worker actually pushed for (and succeeded) in a reunification effort of a baby with his biological family because she felt that the child going to live with a drug addicted mother who had said she did not want him was better than him being adopted by us.

6. Even when we (or rather I) was able to adopt, there were always questions of "who is the mother", which was awkward for us and upsetting to our children. At times K[redacted] would have to call me at work and pull me out of meetings to give permission for her to talk to a teacher about an issue at school or

give permission for the doctor to treat our child because she was the one at the appointment. We have been fortunate that these incidents were not too numerous and we were able to explain things to others without any long delays to what our children needed. But the occurrence of them is always in our mind and makes us pause at times about where and how to tell professionals about our family.

7. We have spent thousands of dollars in legal fees to try and give K[redacted] my permission to care for our children. We keep documents at home and have provided them to the schools and pediatrician. We have also carefully written our Wills so that in the event something were to happen to me, our children should remain with Kate as their legal guardian. However the reality is that my parents (who are only mildly tolerant of our life) could fight in court to obtain custody and possibly win, even though Kate has been their parent their entire lives.

8. Our children ([redacted], [redacted], [redacted], [redacted], and [redacted]) are generally comfortable talking about their family, but still face questions and confusion when having to explain if their parents are married, or how they have 2 moms. I realize marriage equality across the nation will not instantly change everyone's beliefs about this topic. But it would send a strong message that it is an accepted form of family, and put into the common language a way to talk about it. This concreteness is especially important to children, and even more so adopted children, who are trying to figure out their place in this world. To have their family recognized as legitimate and real in the eyes of the government can give a sense of security and legitimacy to their lives. They are not able to fully understand the legal

ramifications, but they are able to hear the fear in our voices when they ask what would happen to them if one of us were to die and we cannot promise that the plans we have set up would be honored.

9. In 2010, we were legally married in Canada. We were hoping for a little more security with our family, but in reality we saw very little direct effect in our home state. Eventually with changes at the Federal level we have seen some benefits. One issue in particular is related to health insurance. For a variety of reasons, we have structured our family so that K[redacted] is the stay-at-home mom. However, without an employer K[redacted] was unable to find affordable reliable health insurance coverage. Eventually my employer offered domestic partner benefits, which allowed K[redacted] to be covered under my insurance plan but I had to pay a different amount and additional taxes. When the Federal rules changed we were finally treated the same as other couples and no longer charged additional tax for our family to be covered. If we had not left our home state to obtain a legal marriage elsewhere, this would not be possible.

I declare under penalty of perjury that the foregoing is true and correct to the best of my actual knowledge and belief.

Executed on this 24 day of February, 2015 in Cuyahoga County, Ohio.

/s/ M[redacted]

IN THE SUPREME COURT OF THE UNITED STATES

JAMES OBERGEFELL, ET AL., AND BRITTANI HENRY, ET AL., *Petitioners*, v. RICHARD HODGES, DIRECTOR, OHIO DEPARTMENT OF HEALTH, ET AL., *Respondents.*	)	**CASE NO. 14-556**
	)	**DECLARATION OF JANE DOE 2**

I, S[redacted], under 28 U.S.C. § 1746, declares as follows:

1. I have personal knowledge of all facts recited herein.

2. I am over eighteen years old and competent to make the following representations and give the following consent in this matter.

3. At the age of 8, my mom passed away and I was placed in foster care, living from home to home until the age of 18. I've always wanted someone to love me for me and grew up looking for a mother figure. At the age of 14 I started to feel differently. Most girls my age were boy crazy, but

not me. I was girl crazy! Then at 18, low and behold I met her, my first love. Although we had known each other since we were 8 years old, we hadn't felt this way towards each other before. After we had been together for about 8 years we decided to get married. We found a minister and who performed the ceremony and gave us a certificate of marriage. However there were still issues that kept me and my spouse from having a normal married life. She found a very good job with fantastic benefits, but, our marriage was not considered legal and she wasn't allowed to carry me on her insurance. It really came at the most inconvenient time because I started experiencing serious health issues. Had our marriage been recognized, we wouldn't have gone through the hardships that eventually took its toll on our relationship. By legalizing same sex marriage, these young people who are in the system, but are of legal age to marry, will be able to be together, married, without suffering the hardships surrounding the ban of same sex marriage. I hope my story will help another gay couple through this journey. Thank you.

I declare under penalty of perjury that the foregoing is true and correct to the best of my actual knowledge and belief.

Executed on this 26th day of February, 2015 in Cuyahoga County, Ohio.

/s/ S[redacted]

IN THE SUPREME COURT OF THE UNITED STATES

JAMES OBERGEFELL, ET AL., AND BRITTANI HENRY, ET AL., *Petitioners*, v. RICHARD HODGES, DIRECTOR, OHIO DEPARTMENT OF HEALTH, ET AL., *Respondents.*	)	**CASE NOS. 14-556**
	)	**DECLARATION OF JANE DOE 4**

I, S[redacted], under 28 U.S.C. § 1746, declares as follows:

1. I have personal knowledge of all facts recited herein.

2. I am over eighteen years old and competent to make the following representations and give the following consent in this matter.

3. My wife and I have been married for 2 years (in New York state) and together for 5. I had two children from a previous relationship, both of which she is helping to co-parent. Being that their dad still has visitation rights to the kids, second parent adoption isn't an option within the confines of

our current family structure, but certainly has impacted our decision whether or not to expand our family further and the rights and privileges associated with legal marriage have impacted our family in the present.

4. The legal code as it exists helps dictate how we understand the world around us and societal expectations in terms of navigating interpersonal interactions and negotiating business deals. Marriage is, in practical effect, a hybrid of all of these things. I do not think marriage equality will remove bigotry or small mindedness, but it will provide people with an infrastructure of predictable legal action that is universally acknowledged, understandable, and defensible. Right now, legally speaking, our family doesn't exist in Ohio, and countless other places, and that reality has a direct correlation with how other people view us.

5. Recently, our 11 year old daughter was mercilessly mocked at school by a boy who kept taunting her that "[she doesn't] have a family" and "how does it feel to not have a family." These taunts, which don't begin or end there, stem from him realizing that she lives in a household with, and is being parented by, a same sex couple. Sixth grade is tumultuous enough without having the added complication of people scrutinizing and ultimately deciding that the people you live with don't constitute a family. Unfortunately, in Ohio, in strict legal terms they are right.

6. We also face the conundrum of trying to teach our kids to respect authority and follow the rules, yet simultaneously telling them that this

particular rule (and in Ohio's case, Constitutional amendment) is ignorant and rooted in fear. When the four of us, accompanied by our families and closest friends, went to New York for our wedding ceremony, our youngest, who was 6 at the time, was worried that we would be arrested upon re-entering Ohio. In his mind, since same sex marriage is not legal in Ohio, our marriage effectively made us criminals. The lack of equality in our state does not appear to children as a mere nuance in civil status, to them, we are social and, after having been married in another state, legal pariahs. They fear for our family. They fear the police. They fear that we are "bad." These fears culminate in a confusing reality in which their knowledge and confidence in us as people and in our family unit is challenged by society as a whole. This is a daunting reality to deal with as an adult and doubly so for a child.

7. Recently, my wife lost her job. Despite me being employed at a place with open and inclusive policies, including same sex partner health care coverage, her mid-year lack of employment did not constitute a "change of circumstance" that would qualify her for coverage. As a result, the upper administration at my employer looked into other heath care plans and their policies regarding same sex couples. They found that across the board, in states where same sex marriage is not legal, the only time a same sex partner/spouse can join or rejoin the plan is during open enrollment. The option of adding a heterosexual spouse to your healthcare plan after a "change of circumstances", which losing a job is universally acknowledged as, is commonplace. Yet, consistently in states that do not recognize same sex marriages, this option is not available for same sex

couples. This unanticipated lack of health care coverage put our family in a financial conundrum and made a bad situation exponentially worse.

8. My wife, by training, is a teacher. In a state in which there is a complete lack of protection for homosexuals, she could essentially be fired from her school district simply for being gay. Some districts have, of their own volition, decided to add sexual orientation to their list of protected statuses within the district, but many have not. If employed in a district that has not added sexual orientation as a protected status, she has to make the decision whether her co-workers and administration should be privy to the existence of our family. She has to choose between acknowledging her family and maintaining, a tenuous at best, sense of job security. In a competitive job market, that also means she needs to decide between applying everywhere that has available positions that fit her area of certification or if she should only apply to the limited number of schools that have explicitly stated that sexual orientation is a protected status. Both are limiting and risky choices for a variety of reasons. Having been together while some of the aforementioned scenarios played out, I will attest that these choices are disheartening and degrading for every member of our family. How do you teach children to love themselves and be proud of their family when the adults who are leading them don't feel legally safe to acknowledge their existence or the true composition of their family in their professional realm? The level of stress that these choices create permeate the reality of all family members. Nobody wants to feel invisible, particularly not a child.

9. We have spent thousands of dollars having legal paperwork drawn up that spells out the legal expectations we have for ourselves, our property, and our mutual right to make decisions regarding each other in the event that one of us is incapacitated. All of these things are inherently assumed if your marriage is legally recognized. It is taxing to explicitly name, on legal documents, your parents and siblings to purposefully exclude them from decision making, to ensure that your spouse might be given that chance. In reality, despite these lengths being taken, we are both well aware that many hospitals and courts will continue to ignore our carefully planned requests and, in a time sensitive situation, that is a potentially life changing scenario.

10. In discussions about whether we would expand our family or not, we have had to consider so many elements of a legal nature that the process has becoming indescribably daunting and, in reality, would be crushingly expensive. In Ohio, only one of us could be the child's parent. That means that only one of us would be allowed to make legal, academic, and health decisions for that child and exceptions to allow the other, non-legal parent, to make decisions on a daily basis would be made, on a case by case basis, if the non-legal parent brought the proper legal paperwork and the person receiving said paperwork was amenable to it. Such a process is arduous and invasive. I shouldn't have to articulate the construct of my family at every dental check-up or if my child needs to go to an urgent care for an ear infection. Nor should I have to worry that every time I am in a decision making situation with my children that they may or may not experience somebody not only scrutinizing our family, but possibly rejecting

one of us as their parents through their denial of our ability to access treatment or make decisions for that child.

11. If we chose to expand our family, being that only one of us could be that child's legal parent, that means we would be limited to insuring that child on one of our insurance policies. What happens if there is a job loss or major change of circumstances? We would never have the option of putting that child on the other parent's insurance. In that scenario, potentially a parent and child are both uninsured making them, and our family as a whole, more vulnerable and exponentially more financially unstable.

12. If we expanded our family, one of us would not have access to FMLA if there was a medical issue with any additional children. If we expanded our family, those children would not be eligible to receive one of our social security benefits if a tragedy befell our family.

13. I can't tell you how many evenings I go to bed and wonder if living my truth is at too high of an expense for my kids. They are good, strong, brave, kind, and proud, but the daily scrutiny and treatment that we and they receive, and the blind eye that so many people turn to it, is taking a toll. The cumulative effect of that toll is yet to be determined, but certainly does impact them in profound ways. I don't know if I, in good conscious, could ever expand our family and do that to more children.

14. Marriage equality is but one step in

eradicating these issues, but is a huge leap in letting families like ours know that we matter and we will be protected regardless of what popular (or unpopular) opinion is. We, and our kids, should know that we are of equal value and nobody, and no state, should have the right to say otherwise.

I declare under penalty of perjury that the foregoing is true and correct to the best of my actual knowledge and belief.

Executed on this 23 day of February, 2015 in Cuyahoga County, Ohio.

/s/ S[redacted]

IN THE SUPREME COURT OF THE UNITED STATES

JAMES OBERGEFELL, ET AL., AND BRITTANI HENRY, ET AL., *Petitioners,* v. RICHARD HODGES, DIRECTOR, OHIO DEPARTMENT OF HEALTH, ET AL., *Respondents.*	)	**CASE NO. 14-556**
	)	**DECLARATION OF JANE DOE 5 AND JANE DOE 6**

I, L[redacted], under 28 U.S.C. § 1746, declares as follows:

1. I have personal knowledge of all facts recited herein.

2. I am over eighteen years old and competent to make the following representations and give the following consent in this matter.

3. E[redacted] and I met 6 years ago while studying for the bar exam in Philadelphia. It turned out that we'd both been working for the same law firm but hadn't yet met, so a colleague introduced us. We became quick friends, but didn't start dating until a year later.

4. After dating for a little over a year, I accepted a new job and made the difficult decision to move back home to Cleveland, Ohio to be closer to my family. E[redacted] and I continued dating long distance with many long drives between Cleveland and Philadelphia. E[redacted] proposed to me on one of those trips back to Philly a year later and we had a commitment ceremony with our friends and family in the oldest botanical garden in America in September of 2012. When Pennsylvania lifted their gay marriage ban in 2014, E[redacted] and I were finally able to apply for a marriage license and were legally wed by the PA Supreme Court justice that E[redacted] clerked for during law school.

5. It was bittersweet knowing that we had to go out of state in order to have our relationship recognized. So why didn't we just wait for Ohio to catch up with the other 37 states that currently permit gay marriage? Because E[redacted] and I had decided to start our family and Emily was three months pregnant. It was our hope that marriage would afford us additional legal protections to our relationship and our future children. Unfortunately, we learned that an out of state marriage license has very little value in Ohio and offers almost no protection to our family.

6. As the non-biological mother of our soon to be born daughter, Ohio law treats me as a legal stranger. A stranger that has no rights to make healthcare decisions, no access to medical records, and whose name will not appear on the birth certificate despite the fact that we are legally married at the time of her birth. To further complicate matters, Ohio law only recognizes one

mother, so the only way I could have parental rights would require E[redacted] to completely give up her rights. And Ohio does not permit second parent adoptions like many other states do, so I cannot apply to be recognized as our daughter's other parent. Nor can I apply to adopt our daughter as a step-parent. Our attorney, M[redacted], has advised us that the sad truth is that there is very little we can do to protect our family unless Ohio adopts new laws. She will guide us through the process of applying for legal guardianship and filing a shared parenting plan, but even these will provide very little security.

7. Getting legal recognition is important because it will impact our child's well-being. These are issues that currently keep us up at night worrying what could happen to our family. In the event that something happens to E[redacted] during child birth and our child is left without her biological mother, the law favors her next of kin, her biological grandparents rather than her non-biological mother. Her grandparents who live in Philadelphia, who have struggled to accept their daughter's sexuality and her decision to move to Cleveland, would be given preference over me, the non-biological mother. The daughter that we have prepared so long for, could be ripped away from me without any consideration. In the event of a divorce, E[redacted] has no ability to request that I pay child support or provide any assistance in raising the daughter that we brought into this world together. E[redacted] would become a single parent with no right to support and I could walk away obligation-free. The current laws would not give me the ability to seek custody, visitation or co-parenting rights for our child. My parents, her non-biological grandparents, would not likely receive visitation or

continuation of their relationship with our child. Finally, in the event of my death, our daughter is not considered my heir, meaning she will not legally inherit from my estate (and will not be treated as a grandchild to inherit from my parents) and cannot receive my social security or other death benefits. These are only a few our concerns, there are so many other scenarios where Ohio would provide limited, if any, protections under the law.

8. Ohio's laws leave all three of us vulnerable in different ways. We have done as much as we can to minimize the risks we face. There are questions and steps we have had to take that our heterosexual counterparts don't have to think or worry about. Our attorney has drafted documents and a plan to help protect our family, but there is no amount of money or paperwork that will ever give our child the same security as her peers. Every day brings more considerations and questions we have to tackle to ensure the best possible care for our child. We've had to worry about whether I can, as the non-biological mother and legal stranger, add our child to my current health insurance plan. I've had to ask our provider and the Cleveland Clinic if I will be afforded the same rights and access during the delivery of our child. I've had to navigate maternity/paternity policies to see if I am permitted a leave to care for a child that Ohio law says is not mine. We are grateful to work for employers who recognize our family for exactly what it is and grant us the same rights and benefits as our heterosexual colleagues. However, we know that there are countless others in our community working for companies who are not as inclusive and who have no recourse or protections under the law. We are

fortunate to have access and the ability to seek experienced legal representation to protect our family when we know that many others cannot afford to take the steps needed to do the same.

9. We don't want to raise our daughter in a state that treats our family like second-class citizens. We respectfully request that Ohio provide the same level of recognition, respect, and sanctity to our marriage and our family as every other marriage and family within our state. We would like Ohio to legally recognize both of our daughter's parents, with a birth certificate that reflects the truth of her birth, so that she can be legally cared for by both of us, as her parents. Our daughter will invariably learn about the inequality in our world one day, I just hope that lesson doesn't come sooner than it has to.

I declare under penalty of perjury that the foregoing is true and correct to the best of my actual knowledge and belief.

Executed on 24th day of February, 2015 in Cuyahoga County, Ohio.

IN THE SUPREME COURT OF THE UNITED STATES

JAMES OBERGEFELL, ET AL., AND BRITTANI HENRY, ET AL., *Petitioners*, v. RICHARD HODGES, DIRECTOR, OHIO DEPARTMENT OF HEALTH, ET AL., *Respondents*.	)	**CASE NO. 14-556**
	)	**DECLARATION OF JANE DOE 7 AND JANE DOE 8**

I, H[redacted], under 28 U.S.C. § 1746, declares as follows:

1. I have personal knowledge of all facts recited herein.

2. I am over eighteen years old and competent to make the following representations and give the following consent in this matter.

3. Family is the central pillar holding up the foundations of our modern society. The fact that

we are in a same-sex marriage does not change the wholesome family values that we want to teach our child. Our story starts 8 years ago with a Brit (J[redacted]) and an American (H[redacted]) falling in love. After a few years we wanted to build a future together. This entailed immigrating to the UK, which although financially pricey, was a relatively simple and straight forward process. The laws protect LGBT people, partners and families here in the United Kingdom (UK). In 2013, we decided to grow our little family and in July 2014 we welcomed a son into the world. Again, the laws protected us and it was straight forward. As we were married, my partner was listed as "parent 2" on his birth certificate. No questions asked. We work and live the same as conventional couples and their families, and enjoy the same benefits. The laws are on our side. We simply don't have to worry for a second about our relationship being questioned. Both of us are parents and can make decisions for him, etc.

4. Being a first time parent is a wonderful blessing and frightening experience. To love something so completely and wanting to raise them to be a confident, loving and hardworking individual can become a minefield. Is this the right type of formula? Is this the right kind of toy to spur his development? Is this the right song to sing? Although when these things boil down, do they make a difference? The jury is still out, but what does make a difference is family and feeling secure and safe. Time and time again we hear stories of same-sex individuals raising a family and doing this together, despite the obstacles Ohio laws make for us. But imagine raising your own child and not having these fundamental rights like being able to

make a medical decision at a life threatening moment. This would be every parent's worst nightmare and it is a true picture for same-sex parents in Ohio.

5. In a few years' time, our family will be looking to head back to Ohio. Unfortunately, we are concerned about the current state laws and how they may negatively impact on the stability and security of our wonderful family. In 2013, when the Supreme Court struck down DOMA, we knew that our dream of returning to the home was becoming a reality as our family was now recognized federally. This change became most significant when our son was born. Despite being born in the UK to a same-sex couple, he was immediately granted American citizenship. Additionally both of us were registered as parents on his US birth certificate. This was an absolute validation that our family was welcomed by the US federal government, what a relief!

6. However Ohio is still discriminating against families like ours. Families that would like to return to Ohio, to their extended family, to work hard and provide a loving and stable environment for our son, so that he can grow up and contribute to a positive work force and become a positive member of society. Ohio hasn't validated our families. Same-sex parents in Ohio who want to raise their children as confident and happy children are always faced with a threat that they are not the same, deserve less than conventional couples and cannot make decisions for the children they raise and love unconditionally.

7. Although recognized federally as both parents to our son, we are still unsure if Ohio will recognize my partner as "parent 2". If we decide to

have more children in Ohio, it has been made clear that my partner will not be recognized as a parent. However, the decision made for having children will be decided by both of us, just as it is with all couples. My partner had just as much of a struggle dealing with a hungry, swollen, hormonal pregnant wife, with late night runs to the local convenient store for a specific bar of chocolate which of course they did not have. She was there at every medical appointment, to hear and see our son growing. She was there holding my hand during the emergency caesarean to bring him safely into this world. She has done night feeds, rocked him to sleep, reads him books, changed a million and one diapers (and counting) and most importantly shows him unconditional love as only a parent can do. To not be recognized as a full parent is an indignity. And Ohio is doing this daily.

8. Please remember when making a decision, we are not asking for "special rights" or different rights. We want to simply live with our families close by and not have to worry about security and stability for our family. We want to be able to equally make decisions for our son and be recognized as both his parents. We don't think this is too much to ask.

9. I sincerely hope that when the day comes when we will return to Ohio, the heart of it all, we all will be protected, accepted and allowed to live the same life and have the same rights as every other conventional family enjoy.

I declare under penalty of perjury that the foregoing

is true and correct to the best of my actual knowledge and belief.

Executed on this 24th day of February, 2015 in, Cuyahoga County, Ohio.

/s/ H[redacted]

IN THE SUPREME COURT OF THE UNITED STATES

JAMES OBERGEFELL, ET AL., AND BRITTANI HENRY, ET AL., *Petitioners*, v. RICHARD HODGES, DIRECTOR, OHIO DEPARTMENT OF HEALTH, ET AL., *Respondents.*	)	**CASE NO. 14-556**
	)	**DECLARATION OF JANE DOE 9**

I, M[redacted], under 28 U.S.C. § 1746, declares as follows:

1. I have personal knowledge of all facts recited herein.

2. I am over eighteen years old and competent to make the following representations and give the following consent in this matter.

3. My partner, T[redacted], and I have been together since 1995. I brought four children into our relationship from a previous marriage. T[redacted] has

loved, parented and sacrificed for them from the beginning. The children, two sons and two daughters also loved her and depended on her for care, advice, and support. Our family was predominantly happy and functional. We held our children to higher standards. Being the children of a lesbian couple in a mostly white, straight, middle class suburb was challenging to our kids. They often had to prove themselves, prove they were smart, talented, and socially skilled, in order to be as good as the students from "normal" families. They succeeded; good grades, well liked, athletic, leaders. Even so, they were often not welcomed into the homes of some of their friends. We as their mothers were almost always not welcome. If we had been legitimized with a marriage license, it might have been different for some.

4. In 1999, my father, who our children loved, was dying of lung cancer. As a family we visited him frequently in the Veteran's Hospital in Huntington W. Va. T[redacted] also loved him and was loved by him. It was very difficult for us to drive from Cleveland, Ohio to Huntington almost every weekend, but we did. We would often meet resistance at the hospital because only family was allowed into see my father. T[redacted] was not family given that we could not be married. Our sons, especially, were losing a father figure/role model in my father. He was a retired career Marine who lived by the Marine's honor standard. They were his only grandchildren and they were very special to him. I got the call in the early morning of April 6, 1999 that Dad had passed. We set about letting all of the children know then sitting together with them as they, and we, tried to deal with it. His funeral was

held on Wednesday of the following week. Our oldest son gave the eulogy. The kids huddled together as taps were played. The funeral was devastating.

5. As we drove home, I received a call from a former neighbor who informed me that my ex-husband, the children's father, had been hospitalized and was in critical condition. The children had a difficult relationship with their father. He was a good man, but an alcoholic with the typical strained parenting that goes along with that. Regardless of the history, it was frightening to know their father was in critical condition as they drove home from their beloved grandfather's funeral. Their father died one week from the day that their grandfather died. It was a compounded grief. We watched our strong, good children stand next to their father's grave confused and doubly sad. All of our children had various emotional reactions to the loss of these two men only a week apart.

6. T[redacted] and I felt their grief and worked together to try to ameliorate its effect. Along with the usual elements of loss and grief, we recognized that there was generalized fear, especially with our youngest child who was [redacted] years old at the time. He alternated between acting out and clinging to both of us but particularly my partner, his "other" mom, who had represented a father figure for him. She never missed a basketball, baseball or football game. She was there when he was angry or sad or both. He took comfort in her for many reasons. She was steady, consistent, fair and firm.

7. T[redacted] and I realized that we needed to make sure that [redacted] knew that he was safe and secure and that he would be taken care of if anything

were to happen to me. His grandparents on both sides were not stable. His father's parents were dealing both with colon cancer and his grandfather's alcoholism. Added to that, they had rejected all of the children when I divorced their son and I came out. My father was now deceased and my mother also struggled with addiction. [redacted] asked often if he could be sure that he could stay with one of his mom's should something befall the other. I, of course, would have custody. T[redacted] however would have no legal right or legal standing should something happen to me. We consulted an attorney to try to find a solution. The only advise we were given was that I could make mention in my will that I wanted T[redacted] to be his guardian should something happen to me. Had we been a heterosexual couple who was married, there was more that could be done.

8. [redacted] struggled with the insecurity throughout his high school years. That was reflected by continued acting out and the tendency to sabotage when he got close to success. There was more than one reason for this, but his persistent worry about the loss of another parent was significant. As he approached graduation, he was offered a scholarship at a D II college to play football. Although this was something that he dreamt about since he was very young, he turned it down. After many long tearful conversations as to why, we discovered that he was afraid to leave us because he worried that something would happen to one of us. Certainly it was an unreasonable belief to think that if he was here he could prevent disaster, but he couldn't shake it. [redacted] wound up going to the local junior college and living at home. It took until he was engaged to his wife for him to move into a place of his own.

9. There have been many times throughout the life or our family when being able to say that we were married would have made our lives better and made us more legitimate in the eyes of those who only understand the concept of marriage. We have created many of our own rituals over the years we have been a family to emulate what straight couples take for granted. Although our story is significant, I know there are many more couples whose children have struggled because of the inability to be married in Ohio. It is my fondest hope that my home state gets to a place that allows the lives of all of us to be honored and legitimized.

I declare under penalty of perjury that the foregoing is true and correct to the best of my actual knowledge and belief.

Executed on this 24th day of February, 2015 in Cuyahoga County, Ohio.

IN THE SUPREME COURT OF THE UNITED STATES

JAMES OBERGEFELL, ET AL., AND BRITTANI HENRY, ET AL., *Petitioners*, v. RICHARD HODGES, DIRECTOR, OHIO DEPARTMENT OF HEALTH, ET AL., *Respondents*.	)	**CASE NO. 14-556**
	)	**DECLARATION OF CHILD 1**

I, D[redacted], under 28 U.S.C. § 1746, declares as follows:

1. I have personal knowledge of all facts recited herein.

2. I am over eighteen years old and competent to make the following representations and give the following consent in this matter.

3. My mother left my father when I was five years old. He was an alcoholic. He was financially and emotionally unavailable and

sporadically in the lives of my siblings and I until his death at age 49.

4. When my mother met her partner T[redacted], she embraced me, [redacted], [redacted], and [redacted] as her own. The void that had been left by my unavailable, sick, father was finally filled and T[redacted] quickly became a parent to us. She cared for us when we were sick, helped us with bills, attended our sporting events, and offered us unconditional love. She walked us down the aisle and has been present for the birth of 5 grandchildren.

5. She is our second mom. But because my parents cannot get married, she has never been given the rights, privileges, and respect of a legal parent. She couldn't take us out of school when we were sick. She couldn't sign permission slips, or get recognized at banquets and at senior night. When we went off to college and my mom was struggling financially, she couldn't put us on her health plan. And most tragically, if something had ever happened to my mother, she could not have legally adopted us. We would have been forced to live with a relative that was merely an acquaintance to us instead of the only other parent we had known.

6. The sadness and shear tragedy of the marriage ban in Ohio was never more apparent than on a sunny June day in 2012 when T[redacted] had a brain aneurysm. As the family sat vigil in the hospital, hanging on the doctor's every word, my mother, her partner for 17 years, was merely a "friend" in the eyes of the hospital and the state. They did not use the words spouse or wife because they could not. Gratefully, the hospital staff was respectful to my mother and did their best to accommodate her. But

the reality was that had T[redacted] not survived, my mother would not have had the same rights as a legal wife. At a time when my mom was experiencing so much pain and fear, this too had to weigh heavy on her heart and mind.

7. I was born in Ohio. It is my home. It is a shame that it remains a place where two people like my parents cannot get married and share the same rights as a heterosexual couple. Being legally married is more than just a title or a piece of paper. It impacts the children of homosexual couples in so many ways. But most importantly we do not get to legally recognize those individuals who have raised us and loved us simply because the government has told us we cannot.

I declare under penalty of perjury that the foregoing is true and correct to the best of my actual knowledge and belief.

Executed on this 25th day of February, 2015 in Mecklenburg, North Carolina

/s/ D[redacted]

IN THE SUPREME COURT OF THE UNITED STATES

JAMES OBERGEFELL, ET AL., AND BRITTANI HENRY, ET AL., *Petitioners*, v. RICHARD HODGES, DIRECTOR, OHIO DEPARTMENT OF HEALTH, ET AL., *Respondents*.	)	**CASE NO. 14-556,**
	)	**DECLARATION OF CHILD 2**

I, J[redacted], under 28 U.S.C. § 1746, declares as follows:

1. I have personal knowledge of all facts recited herein.

2. I am over eighteen years old and competent to make the following representations and give the following consent in this matter.

3. While the marriage ban in Ohio has negatively impacted my family in so many ways from a legal standpoint, the archaic and antiquated stance

on same sex marriage in Ohio has been detrimental to myself and my siblings from a social and psychological standpoint as well.

4. I am the youngest of four, and my mother left my alcoholic father when I was just an infant. My father was an unreliable, absent man who was unable to care for his children while battling his demons. For most of my childhood, I was the son of a single mother.

5. When my mother found her partner, T[redacted], I finally received the love from a second parent that I did not know existed. I bonded with her as I had never done with anyone else before, T[redacted] treated me as her own son from the very beginning. T[redacted] taught me what is was to be respectful, to have a work ethic, and to take pride in everything I do. All of the core values that I pride myself on today and work to instill in my daughter were taught to me by her.

6. The Ohio marriage ban helps to perpetuate the stigmatism that accompanies same sex couples. While people are free to think for themselves, many ideals and norms for Americans are based on the public perception and governmental regulations that they live with.

7. As an adolescent, I lived in a middle class suburb. I spent the majority of my teenage years afraid to tell people about someone SO important to me. I was a 3 sport athlete, captain of the varsity football team, and all-county football player, but I could not share any of this with T[redacted] in public because my community was not accepting of same sex couples. I was afraid to have friends over to my house because I did not want them to know

and tell everyone else; not only for my reputation, but to protect my family from the bigotry and prejudice that they would be sure to face at community events and school activities.

8. By Ohio refusing to recognize same sex marriages, my family has been cheated out of special moments that most all other families get to proudly share. Of course the legal aspects were extremely detrimental to my family (not legally being T[redacted] child, health insurance rights for our family), but the social and psychological damage that is being perpetuated by the state was just as difficult.

9. I love Ohio. It is a part of who I am. I plan to stay here and raise my family in Ohio. But it is time Ohio steps up and recognizes that its stance on marriage is dated and flawed. T[redacted] is my parent, and is the grandmother of my child. It is time that the state government recognizes her the same way.

I declare under penalty of perjury that the foregoing is true and correct to the best of my actual knowledge and belief.

Executed on this 24th day of February, 2015 in Medina/Ohio.

/s/ [redacted]

IN THE SUPREME COURT OF THE UNITED STATES

JAMES OBERGEFELL, ET AL., AND BRITTANI HENRY, ET AL., *Petitioners*, v. RICHARD HODGES, DIRECTOR, OHIO DEPARTMENT OF HEALTH, ET AL., *Respondents.*	)	**CASE NO. 14-556,**
	)	**DECLARATION OF CHILD WELFARE PROFESSIONAL 1**

I, S[redacted], under 28 U.S.C. § 1746, declares as follows:

1. I have personal knowledge of all facts recited herein.

2. I am over eighteen years old and competent to make the following representations and give the following consent in this matter.

3. As a Licensed Professional Counselor and Adoption Assessor, working in the field of Foster Care and Adoption for 20 years, I have felt the

impact of the Ohio Ban on same sex marriages.

4. Years ago I worked with two women in a long term committed relationship who became a family of 5 through adoption. One partner adopted 2 children, and the other adopted the third child. Since neither of the companies they worked for offered health insurance or medical care for domestic partners, both women had to return to work after the adoptions, necessitating the use of child care for very young children. Their children were not able to benefit from the consistent care and bonding that could have occurred if one of the partners had been able to remain home with the children during those very important first years. They, as responsible parents, would not allow any of the children to go without medical coverage, and therefore both mothers worked. If they had been able to get married, and the children were each legally tied to both mothers, one could have provided full time care and nurturing.

5. I have also worked closely with many same-sex adoptive families who legally are not given the same benefits as their heterosexual counterparts. For example, when completing a home study, I must approve only one partner as the adoptive parent. I recently completed a home study for a Second Parent Adoption with one gay couple. The couple had to resort to filing a petition to adopt in an out-of-state probate court using the Ohio home study. The parents successfully obtained a final decree of adoption as proof of the second parent's relationship with the children. Ohio would not issue new birth certificates for the children documenting the court's decision. It is assumed, but not guaranteed, that this adoption will be recognized under the Full Faith and

Credit Clause of the Constitution.. This process imposed a financial burden on the family in an effort to secure legal rights, money which could have been spent on the care of the children.

6. I am personally aware of approximately 10 same sex couples who have adopted infants after being chosen by birth parents who voluntarily surrendered their parental rights. I am also personally aware of many others waiting to adopt. My experience shows me that same sex couples are chosen by birth parents with approximately the same frequency as heterosexual couples or single adopters.

I declare under penalty of perjury that the foregoing is true and correct to the best of my actual knowledge and belief.

Executed on this 24th day of February, 2015 in Cuyahoga, Ohio.

/s/

IN THE SUPREME COURT OF THE UNITED STATES

JAMES OBERGEFELL, ET AL., AND BRITTANI HENRY, ET AL., *Petitioners*, v. RICHARD HODGES, DIRECTOR, OHIO DEPARTMENT OF HEALTH, ET AL., *Respondents*.	)	**CASE NO. 14-556**

DECLARATION OF CHILD WELFARE PROFESSIONAL 2

I, J[redacted], under 28 U.S.C. § 1746, declares as follows:

1. I have personal knowledge of all facts recited herein.

2. I am over eighteen years old and competent to make the following representations and give the following consent in this matter.

3. I am an 18 year employee of the Cuyahoga County Division of Children and Family

Services. I have worked as a direct services caseworker in child protection. I facilitated team decision making meetings when the removal of a child was being considered or a child already in CCDCFS custody was facing a possible placement change or was in need of permanency. I also facilitated case review meetings for children in care. Parents, their partners, caregivers, friends, family, service providers, GALs, caseworkers, and CCDCFS staff are invited to these meetings. Many of these individuals or couples identify as LGBTQ.

4. Children of same sex couples in Ohio are impacted by the gay marriage ban every day, whether they are in CCDCFS custody or home with their parents. The same struggles that challenge heterosexual relationships may leave same sex relationships in perpetual discord. This is because the challenges will not go away unless the ban is lifted. I have seen the same sex marriage ban lead to a great deal of confusion for the adults and especially their children who cannot comprehend the power differential and responsibility solely placed upon the legal parent.

5. Same sex couples who wish to become foster parents or adoptive parents often find they are not as welcome at some of the private licensing agencies. Once some do become licensed, they face adversity with child care and right to consent. I am a member of the CCDCFS LGBTQ committee and we are busy and collaborating with our foster care and residential treatment providers about their own policies and visible welcoming statements for all. We continue to enhance our work by welcoming new members and consultants who add to our mission of working with both children and adults to gain the

support and resources to better understand and work together as family and community in Cuyahoga County.

6. I am currently involved in solution-focused research and program-related activities focused on child welfare practice improvement. CCDCFS is the largest child welfare agency in the state of Ohio with approximately 800 total staff, and about 500 caseworkers. In 2013, 1,677 children per month on average were in the custody of CCDCFS and cared for outside of their homes. CCDCFS served 5,644 children in their own homes in 2013. Also in 2013, 375 children were waiting for an adoptive family.

I declare under penalty of perjury that the foregoing is true and correct to the best of my actual knowledge and belief.

Executed on this 24th day of February, 2015 in Cuyahoga County, Ohio.

/s/ J[redacted]

IN THE SUPREME COURT OF THE UNITED STATES

JAMES OBERGEFELL, ET AL., AND BRITTANI HENRY, ET AL., *Petitioners*, v. RICHARD HODGES, DIRECTOR, OHIO DEPARTMENT OF HEALTH, ET AL., *Respondents.*	)	**CASE NO. 14-556**
	)	**DECLARATION OF CHILD WELFARE PROFESSIONAL 3**

I, A[redacted], under 28 U.S.C. § 1746, declares as follows:

1. I have personal knowledge of all facts recited herein.

2. I am over eighteen years old and competent to make the following representations and give the following consent in this matter.

3. I am an Adoption Subsidy Supervisor at Cuyahoga County DCFS.

4. Cuyahoga County did receive a call a couple of years ago regarding a same sex couple who adopted in Cuyahoga County. The partner who adopted had passed away and the partner who did not adopt was unsure what to do about the adoption assistance. It was explained to her that the adoption assistance was unable to be kept open and the adoption assistance payment had to stop effective the date of death. Thank you.

I declare under penalty of perjury that the foregoing is true and correct to the best of my actual knowledge and belief.

Executed on this 24th day of February, 2015 in Cuyahoga County, Ohio.

/s/ A[redacted]

IN THE SUPREME COURT OF THE UNITED STATES

JAMES OBERGEFELL, ET AL., AND BRITTANI HENRY, ET AL., *Petitioners*, v. RICHARD HODGES, DIRECTOR, OHIO DEPARTMENT OF HEALTH, ET AL., *Respondents*.	)	**CASE NO. 14-556**
	)	**DECLARATION OF ATTORNEY 1**

I, M[redacted], under 28 U.S.C. § 1746, declare as follows:

1. I have personal knowledge of all facts recited herein.

2. I am over eighteen years old and competent to make the following representations and give the following consent in this matter.

3. I am an attorney in Lakewood, Ohio, specializing in estate planning and shared custody

for non-traditional families. I have been practicing law for over 17 years, and during that time, I have seen and heard the devastating effect that Ohio's Constitutional ban on same-sex marriage has had on LGBT families. I have seen the anxiety and frustration in many parents' faces when I tell them that the non-biological parent (or non-adoptive parent) has no legal standing or rights with regard to their children. I have witnessed the drama and uncertainty when parents split, and they are not able to go to Domestic Relations Court to resolve the custody and property issues resulting from their broken relationship. It is not uncommon for LGBT families to leave Ohio for states which provide family and relationship protection.

4. This government-sanctioned discrimination must end. Children in non-traditional families need the legal protections and certainty afforded to children in "traditional" families in Ohio.

I declare under penalty of perjury that the foregoing is true and correct to the best of my actual knowledge and belief.

Executed on this 24th day of February, 2015, in Cuyahoga County, Ohio.

/s/ M[redacted]